

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~XXXXXXXXXX~~
NEW BOMBAY BENCH

O.A. No. 519/91 198
~~XXXXXX~~

DATE OF DECISION 20.11.1991

Shri V.B. Sadavarte & ors. Petitioner

Shri V.V. Vidwans. Advocate for the Petitioner(s)

Versus

Director of Accounts(P) office. Respondent
of the Director of Acc(P), Nagpur.

Mr. Ramesh Darda Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. JUSTICE U.C.SRIVASTAVA, Vice-Chairman

The Hon'ble Mr. M.Y.PRIOLKAR, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? //
2. To be referred to the Reporter or not? //
3. Whether their Lordships wish to see the fair copy of the Judgement? //
4. Whether it needs to be circulated to other Benches of the Tribunal? //

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT NAGPUR

(S)

ORIGINAL APPLICATION NO: 519/91

Shri V.B.Sadavarte,
Sr.Accountant,
In the office of Director
of Accounts (Postal), Nagpur.
and 6 ors.

... Applicants

V/s

Director of Accounts (P)
Office of the Director of Accounts(Postal),
Civil Lines, Nagpur
and ors.

... Respondents

CORAM : HON'BLE MR.JUSTICE U.C.SRIVASTAVA, Vice-Chairman.

HON'BLE MEMBER SHIR M.Y.PRIOLKAR, MEMBER,(A)

Appearance :

Mr.V.V.Vidwans, Adv
for the applicant

Mr.Ramesh Darda, Adv,
for the respondents

ORAL JUDGEMENT

(20TH NOV 1991)

(PER : U.C.SRIVASTAVA, Vice-Chairman)

This is the second inning by the applicants who are working as Senior and Junior Accountants in the office of Respondent in respect of grant of House Building Advance for which they had filed Original application, which was dismissed by this Bench with certain observation on the ground that the same was premature. The grievance of the applicants is that, despite observations and directions made in the said application, the same have not been dealt and complied with and the HBA has been given to the Respondent No.3 and 4 by going against rules and

16

that too out of all their priority basis. As they were not entitled to; their claims should have been considered only after the grant of House Building Advance to these applicants.

According to the applicants, the respondents had adopted irregular procedure in disbursement of House Building Advance. The Department, in the year 1978 vide OM No.1/17015/50-H-III dated 3.11.1978 provided for grant of HBA to the Central Government Servants and the order of priority for the same as follows:

- i) The first priority may be accorded to construction cases where commitments have already been made, i.e. 1st instalment has been released for construction and 2nd and subsequent instalments have to be released at plinth and roof level.
- ii) The second priority may be for those applicants who are due to retire shortly-say within the next five years as any delay in their cases will further reduce the period of recovery, thereby affecting the quantum of advance.
- iii) The next priority may be accorded to application for purchase of ready-built flats where the City Housing Boards Development authorities or even private parties have fixed a time-limit for payment and non-payment by the due date is likely to result in cancellation of allotment of offer to sell; in the case of the latter, there is the risk of earnest money paid by the applicant being forfeited.
- iv) In the last category may fall applications not covered by the above.

2. The applicants have applied in the month of June and July 1989 for grant of House Building Advance while Respondent No.3 and 4 have applied on 24th July 1989 and Respondent No.4 have applied on 3.7.1990 i.e. after all these applicants and to whom now the payment has been made on 19.2.1991. In the application referred above, which was

17

filed earlier by the applicants, this Tribunal had made following observations.

3. After taking into consideration, the submissions made on behalf of the respondents that the respondents have committed error, which they have since corrected, it was observed by this Tribunal in judgment dated 10.1.1991 that there could be no charge of discrimination against respondents nor there could be any ^{accrued} loss to the applicants by virtue of their admitted error. The Tribunal made the following directions..

"It would be necessary to give some re-assurance to the applicants by way of a suitable direction to the respondents. We accordingly direct the respondents to make further payments of House Building Advance strictly in accordance with their instructions as amended/clarified from time to time".

3. We are of the view that it will be necessary to give some reassurance to the applicants by way of suitable directions to the Respondents. We, accordingly, direct that the respondents should make further payment of HBA strictly and in accordance with the instructions as amended and clarified from time to time. The instructions were clarified vide memorandum dated 7.9.1990. This is to be noted that the clarification was given in the year 1990. Though, these were applied in the case of applicants and was not applied in the case of other employee, whose names are given by the applicants which facts have not been denied by the respondents. Under the revised order there is no denial of the fact, that the applicants are not entitled to get HBA for repayment of loan. The respondents have tried to justify the grant of the loan to the respondents Nos. 4 and 5 on the ground as per order dated 4.1.1991 based only on the

(12)


approved applications of the previous year of the last category (4) were to be considered before fresh applications for succeeding year on priority category are considered. The application of the applicants were not approved and hence they were not entitled for the HBA for the payment of loan vide paragraph 2 of the order dated 7.9.1990 for repayment of loan which were taken by them.

4. We have heard learned counsels for the parties and gone through the records. There is no denial of the facts that the applicants' application was prior in time than that of respondents Nos. 4 and 5 and their applications ~~were even~~ before issuance of the said revised order and as such they were governed by the un-revised order. Under un-revised order the applicants' had claim over the respondent No.4 and 5 who were given benefits of the revised order. The benefits to the respondents could have been given only after the applicants case has been considered in accordance with the un-revised rules under which they were entitled to get HBA. It appears that the respondents have correctly applied the order in this behalf in granting HBA out of turn to the respondent No.4 and 5. The applicants were also in the 4th category and yet they were entitled to be retained in higher category, as advance was already given to them, and hence they cannot be taken back but it is clear that it could not affect the rules. Instructions in this behalf are violative. All the directions given by the Tribunal were not strictly adhered to.

15

and accordingly we direct the respondents to grant HBA to the applicants for payment of loan taking into consideration un-revised rules so far as they are concerned. Notwithstanding the fact that others whose applications were given later on, in the same category to which they belong, have been granted HBA.

5. The applicants application be given priority in grant of HBA on repayment of loan even though the same can affect subsequent applicants, but for which the respondents themselves are responsible. Let it be done as early as possible and it is expected that the same will be done within a period of 3 months from the receipt of copy of this order. This application is disposed of with no order as to costs.


(M.Y. PRIOLKAR)
MEMBER A


(U.C. SRIVASTAVA)
VICE-CHAIRMAN